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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/483,526	01/14/00	PILARO	A 12086

EXAMINER	
WILSON, J	
ART UNIT	**PAPER NUMBER**
3732	5

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DATE MAILED: 03/21/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/483,526	Applicant(s) PILARO ET AL.	
	Examiner John J. Wilson	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 January 2000* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-39* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15)☒ Notice of References Cited (PTO-892)
16)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
18)☐ Interview Summary (PTO-413) Paper No(s). _____ .
19)☐ Notice of Informal Patent Application (PTO-152)
20)☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 30, 31 and 35-39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are directed to a method of doing business and the method is not part of a method including the use of data processing or software.

Claim Rejections - 35 USC § 112

Claims 18 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 18 is redundant in view of claim 17. In claim 25, "192" is unclear.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 16, 19, 23-26 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murljacic in view of Roggenkamp. Murljacic shows a method for providing tooth whitening, however, does not show simultaneously administering to more then one patient. Roggenkamp teaches that it is known that dentist simultaneously provide treatment to more than one patient, column 1, lines 21-28. It would be obvious to one of ordinary skill in the art to modify Murljacic to include simultaneously providing treatment to more than one patient as shown by Roggenkamp in order to more efficiently provide patient treatment. As to claim 2, see column 1, lines 10-19 of Murljacic. As to claim 3, the specific location of the evaluation is an obvious matter of choice in the place that a known method is applied. As to claim 16, see column 3, lines 31-46 of Murljacic. As to claims 23-25, the times required to whiten teeth are known in the art to depend on the process and whitener used and on the interpretation of the patient and/or doctor as to how much whitening is desired, therefore, the specific time required is an obvious matter of choice to the skilled artisan. As to claim 26, the use of an examination chair in dental application is well known. As to claim 32, to call a dentist office a center is an obvious matter of choice in terminology to one of ordinary skill in the art. As to claim 33, a dentist's office is known to have a reception area. As to claim 34, the claimed method step is not given patentable weight in the article claim of a center.

Claims 7, 8, 10, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murljacic in view of Roggenkamp as applied to claim 1 above, and

further in view of Kutsch. The above combination does not show priming the teeth. Kutsch teaches priming the teeth, column 11, lines 43 and 44. It would be obvious to one of ordinary skill in the art to modify the above combination to include priming the teeth as shown by Kutsch in order to prepare the teeth for whitening. As to claim 10, see column 15, lines 46-50 of Kutsch. AS to claim 14, see column 11, lines 52 and 53 of Kutsch.

Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murljacic in view of Roggenkamp as applied to claim 1 above, and further in view of Nikodem. The above combination does not show applying light simultaneously to the teeth. Nikodem teaches applying light simultaneously, column 1, lines 56, 57, 65 and 66. It would be obvious to one of ordinary skill in the art to modify the above combination to include applying light simultaneously to the teeth as shown by Nikodem in order to more evenly and efficiently whiten the teeth.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murljacic in view of Roggenkamp and Kutsch as applied to claim 10 above, and further in view of Cornell. The above combination does not show a time period of 20 minutes. Cornell shows a time period of 5-15 minutes, column 3, line 44. It would be obvious to one of ordinary skill in the art to modify the above combination to include a time period as shown by Cornell in order to treat the teeth within known time periods. The specific time

period used is an obvious matter of choice in the degree of a known parameter to the skilled artisan.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murljacic in view of Roggenkamp and Nikodem as applied to claim 11 above, and further in view of Cornell. The above combination does not show a time period of 20 minutes. Cornell shows a time period of 5-15 minutes, column 3, line 44. It would be obvious to one of ordinary skill in the art to modify The above combination to include a time period as shown by Cornell in order to treat the teeth within known time periods. The specific time period used is an obvious matter of choice in the degree of a known parameter to the skilled artisan.

Claims 17, 18, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murljacic in view of Roggenkamp and Kutsch as applied to claim 10 above, and further in view of Pellico. Kutsch teaches the use of hydrogen peroxide, however, the above combination does not show using 1% - 15% hydrogen peroxide. Pellico shows using 7% - 30%, preferably 11%-22% hydrogen peroxide, column 4, lines 1-8. It would be obvious to one of ordinary skill in the art to modify the above combination to include the percentages as shown by Pellico in order to make use of art known percentages for whitening teeth. The specific range used is an obvious matter of choice in the degree of a known parameter to the skilled artisan. As to claim 28, the above combination does not show the use of flavoring. Pellico teaches using flavoring

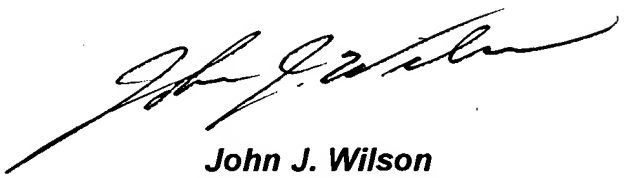
in a whitening gel, column 4, lines 47-51. It would be obvious to one of ordinary skill in the art to modify the above combination to include a flavoring agent in order to render the composition more appealing to the patient. As to claim 29, Pellico teaches adding flavoring to oral compositions. To add flavoring to an isolating material would be obvious to the skilled artisan in order to render the oral composition more appealing to the patient.

Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murljacic in view of Roggenkamp as applied to claim 1 above, and further in view of Cornell. The above combination does not show a specific time period. Cornell shows a time period of 5-15 minutes, column 3, line 44. It would be obvious to one of ordinary skill in the art to modify The above combination to include a time period as shown by Cornell in order to treat the teeth within known time periods. The specific time period used is an obvious matter of choice in the degree of a known parameter to the skilled artisan.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murljacic in view of Roggenkamp and Nikodem as applied to claim 9 above, and further in view of Prencipe et al. The above combination does not show the use of flavoring. Prencipe teaches using flavoring in a dentifrice, column 4, lines 29-37. It would be obvious to one of ordinary skill in the art to modify the above combination to include flavoring as shown by Prencipe in order to make the composition more pleasant for the patient.

Conclusion

Any inquiry concerning this communication should be directed to John Wilson at telephone number (703) 308-2699.



John J. Wilson
Primary Examiner
Art Unit 3732

jjw
March 20, 2001
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